



U.S. Department of Justice

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*United States Attorney
Eastern District of New York*

KAC/DGR
F. #2022R00989

*271 Cadman Plaza East
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June 5, 2023

By ECF

The Honorable Hector Gonzalez
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Rashawn Russell
Criminal Docket No. 23-152 (HG)

Dear Judge Gonzalez:

The government writes to respectfully request the scheduling of a bail violation hearing and an order modifying the defendant Rashawn Russell's conditions of pretrial release to place defendant on home detention with GPS monitoring. As set forth below, since his release on bond in this case, the government has obtained evidence showing that Mr. Russell violated the terms of his pretrial release by travelling to New Jersey and, more troublingly, evidence suggesting this unauthorized travel may relate to an identity theft scheme in which Mr. Russell steals third parties' identifying information like driver's licenses and credit/debit cards.

I. Background

A. Russell's Arrest and Pre-Trial Release

On April 6, 2023, a grand jury in the Eastern District of New York returned an indictment charging Russell with one count of wire fraud in violation of 18 U.S.C. § 1343. Dkt. 1. As alleged, between in or about November 2020 and August 2022, Russell engaged in a scheme to defraud multiple investors by falsely promising that their money would be used for cryptocurrency investments that would generate large—and sometimes “guaranteed”—returns. In truth, much of the investors' money was misappropriated by Russell and used for his personal benefit, to gamble, and to repay other investors. Id.

On April 10, 2023, Russell was arrested by the United States Postal Inspection Service (“USPIS”) outside his residence in Brooklyn. At the time of Russell's arrest, law

enforcement found bank cards and identification of third parties in his possession. On April 11, 2023, the Honorable Ramon E. Reyes, United States Magistrate Judge, Eastern District of New York arraigned Russell. Dkt. 5. Judge Reyes released Russell on a \$200,000 bond secured by two sureties. Dkt. 7. As part of his pretrial release conditions, among other things, Russell is prohibited from committing any new crimes, leaving New York City “except for travel to and from court,” from “enter[ing] any gambling establishments or websites” and from “possess[ing] any bank, credit, virtual currency card or accounts in the name of third parties[.]” Id.

B. Russell’s Pre-Arrest Identity Theft Scheme

As noted above, at the time of Russell’s arrest, he possessed identification and bank cards in the name of third parties. In particular, contained in Russell’s wallet was a New York State learner’s permit in the name of a person with the initials P.F., a debit card in the name of P.F., and a credit card in the name of a person with the initials M.H. After Russell’s arrest, P.F. reported to law enforcement that s/he does not know Russell, and that their debit card and learner’s permit were stolen from an unlocked locker at a gym in Brooklyn.

At the time of Russell’s arrest, USPIIS also found an iPhone on Russell’s person. A preliminary review of Russell’s iPhone reflects that it contained, among other things, photos of the front and back of at least 30 driver’s licenses from states such as New York, New Jersey, and Connecticut, and the front and back of at least 70 credit/debit cards in the names of individuals other than Russell. Metadata for these photographs suggests that some of the photos were taken as recently as between February 1, 2023 to April 7, 2023. Location metadata associated with these photos also shows that certain of the photos of driver’s licenses and credit/debit cards were taken at gyms in New York and New Jersey, such as Gym-1 in Hoboken and Gym-2 in Brooklyn.

For example, the below photo has a created date of March 2, 2023 and photo location metadata suggests it was taken at Gym-1’s Hoboken location.



The below photo has a created date of April 7, 2023—only three days before Russell’s arrest—and photo location metadata also suggests it was taken at Gym-1’s Hoboken location.



Russell's iPhone also contained evidence of what he did with at least some of these third parties' information. In particular, the iPhone contained images appearing to be from gambling websites with accounts in the names of individuals for which there were also photos of driver's licenses or credit/debit cards. The iPhone also contained images reflecting that Russell created email addresses in the names of these individuals too.

Several individuals whose credit/debit cards were found on Russell's iPhone reported to USPIS that they had unauthorized charges on their credit/debit cards.

C. Russell's Post-Arrest Conduct

The government has received information from Gym-1 indicating that between May 1, 2023 and May 23, 2023 Russell entered five different gyms operated by Gym-1 in Manhattan and Hoboken, New Jersey. See Exhibit A, Gym-1 Check-in Logs. On twelve of those days, check-in logs reflect that Russell entered two different gyms operated by Gym-1. For example, entry logs reflect that Russell checked-in to the following gyms on the dates listed below:

- May 14, 2023: Hoboken location at 11:22 AM and 4:57 PM; 34th Street location in Manhattan at 7:25 PM.
- May 16, 2023: Financial District location in Manhattan at 12:49 PM; 38th Street location in Manhattan at 4:06 PM.
- May 20, 2023: Park Slope location at 1 PM; 34th Street location at 4:46 PM.

On the evening of May 23, 2023, a representative from Gym-1 reported to USPIS that two individuals reported to Gym-1 employees that they had cash stolen from their unlocked lockers at Gym-1's Hoboken location. Check-in logs show that Russell entered this location at 5:32 PM on May 23, 2023. The government does not currently have any additional information concerning Russell's connection to or involvement in the specific thefts reported that day.

The government has conferred with Pretrial Services concerning Russell's travel and the information detailed above. Pretrial Services has confirmed that Russell remains unemployed and although he has previously reported going to the gym, he has never reported travelling to New Jersey. As reflected in Gym-1's check-in logs, Russell entered Gym-1's Hoboken, New Jersey location six times in May 2023.

II. Discussion

A court “may at any time amend” an existing release order “to impose additional or different conditions of release.” 18 U.S.C. § 3142(c)(3). “Courts have found that the authorization to amend a release order in Section 3142(c) is based on the possibility that a changed situation or new information may warrant altered release conditions.” United States v. Dzhamgarova, No. 21-CR-58, 2021 WL 3113036, at *1 (S.D.N.Y. July 21, 2021) (internal quotation marks and citation omitted).

In determining whether to modify conditions of release, courts should “‘take into account the available information’ regarding ‘the nature and circumstances of the offense charged,’ ‘the weight of the evidence against the person,’ ‘the history and characteristics of the person,’ and the ‘nature and seriousness of the danger . . . that would be posed by the person’s release.’” United States v. Bankman-Fried, No. 22-CR-0673, 2023 WL 1490417, at *2 (S.D.N.Y. Feb. 1, 2023) (quoting § 3142(g)).

Here, newly discovered information indicates that in the months leading up to Russell’s arrest—and up until just three days prior to his arrest here—that Russell had been taking photos of numerous individuals driver’s licenses and credit/debit cards, that on many occasions these photos were taken at gyms in Manhattan and Hoboken, and that he used these identities on gambling websites and to make unauthorized purchases.

In addition, after his pretrial release, Russell has visited multiple locations of gyms in Manhattan and Hoboken—sometimes just a few hours apart—including where he previously took photos of driver’s licenses and credit/debit cards. Viewed in the context of Russell’s pre-arrest identity theft conduct and its direct ties to the receipt of identifying information at gyms, Russell’s conduct on pretrial release is consistent with his participation in an ongoing identity theft scheme. But even setting aside his apparent involvement in that scheme, by repeatedly travelling to New Jersey without authorization or notice to Pretrial Services and the Court, Russell has also violated his pretrial release condition that he does not leave New York City.

Based on the foregoing, the government requests a violation hearing to address these violations and that the Court enter an order modifying the terms of his pretrial release. In particular, the government respectfully submits that GPS monitoring and home detention (except for court appearances, attorney visits, or other activities approved in advance by Pretrial Services with notice to the government) are necessary to ensure Russell’s continued appearance and that he not commit any crimes of any type while on release.

III. Conclusion

For the reasons set forth above, the government respectfully requests that the Court modify the defendant Rashawn Russell's conditions of release.

Respectfully submitted,

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cc: U.S. Pre-Trial Services Office (by E-mail)